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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/597,891

04/18/2008

Salvador Mateu Climent

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EGBERT LAW OFFICES  
412 MAIN STREET, 7TH FLOOR  
HOUSTON, TX 77002

EXAMINER

TRIGGS, ANDREW J

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

03/06/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,891	<b>Applicant(s)</b> MATEU CLIMENT, SALVADOR	
	<b>Examiner</b> ANDREW TRIGGS	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 6 and 7 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 6 and 7 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. The Examiner acknowledges Claims 4 and 5 have been cancelled and Claims 6 and 7 have been added.

### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection which was necessitated by the cancellation of Claims 4 and 5 and the addition of Claims 6 and 7.

Note: The Examiner had rejected claim 5 under Official Notice. The Applicant has not presented any arguments towards the Official Notice and is therefore deemed as being admitted obvious. "Dependent Claim 7 corresponds to the limitations of previous dependent Claim 5" (Pg 10 of response) thus the Official Notice is applicable to Claim 7.

### ***Claim Objections***

3. Claim 6 is objected to because of the following informalities: On the second page of the claims (numbered 4) on line 7, it reads "said of conduit said second horizontal layer". The Examiner believes a typing error has happened here and appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 6,319,115 to Shingaki in view of US Patent # 2,211,513 to Nagin.

Regarding claim 6, Shingaki teaches in Figure 1, an assembly capable of rapid

consumption of a combustible load located within reach of a fire so as to remove smoke and hot gasses produced by the fire, the assembly comprising: an outside façade sheet (51 left); an inside façade sheet (51 right), the outside (left) façade sheet being spaced from the inside (right) façade sheet so as to define an air chamber (20) extending generally vertical therebetween; [the façade sheets are inherently fire "resistant" as they are of a wooden architecture (Column 9, lines 1-2) and wood will "resist" fire to a degree]; a first horizontal layer (21) extending below and across the bottom of the facade sheets (51), the first horizontal layer (21) having a conduit (211) extending therethrough so as to connect with the air chamber (20) at a location above the first horizontal layer (21), the air chamber (20) extending through the first horizontal layer (21) [since air can flow through the conduits 211 and around the first horizontal layer 21]; a second horizontal layer (33) is positioned above the first horizontal layer (21), the air chamber (20) extending through the second horizontal layer (33) [due to conduits 331], the first (21) and second (33) horizontal layers define a space (43) therebetween, the space (43) suitable [capable of] having the combustible load therein, the second horizontal layer (33) having a conduit (331) extending therethrough, the conduit (331) of the second horizontal layer (33) extends upwardly so as to have an exit communicating with the air chamber (44) in a location above the second

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horizontal layer (330), the outside facade sheet (51) having an air channel (441) having one end opening at an outer side of the outside facade sheet (51) and an opposite end opening to the air chamber (44) in a position below the exit of the conduit (331) of the second horizontal layer (31) [exit of conduit 331 is higher than air channel 441] and above the second horizontal layer (33). Shingaki does not teach the first horizontal layer is formed of wrought iron. However, Nagin teaches a metal and concrete reinforced structure that can be used in buildings (Column 1, Lines 1-4) and that the reinforcement in the concrete can be of wrought iron (Column 1, Lines 47-51) which will be resistant to corrosion. It would have been obvious to one of ordinary skill in the art to make the first horizontal layer of Shingaki like the reinforced structure of Nagin because it will be strong [reinforced] and resistant to corrosion which will allow structure to last for a long time.

Regarding claim 7, Shingaki in view of Nagin teach an assembly capable of having a combustible material extending over the entrances of the first and second conduits but they do not teach the ignition temperature of the material is between 100-150°C. However, the Examiner takes Official Notice that it would have been obvious to ignite a combustible material in the range of 100-150°C depending on the material used and the source of ignition.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW TRIGGS whose telephone number is

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(571)270-3657. The examiner can normally be reached on Monday through Thursday 6:30am - 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew J Triggs/  
Examiner, Art Unit 3635